

## Department of Justice

## § 76.26

(d) The subpoena shall specify the time and place at which the witness is to appear and any documents the witness is to produce.

(e) Unless otherwise ordered by the Judge, the party seeking the subpoena is responsible for service of the subpoena. A subpoena may be served by any person at least eighteen (18) years of age who is not a party, including a private process server or other person authorized to serve process in actions brought in state courts of general jurisdiction or in Federal courts. Service shall be by personal delivery. Proof of service shall be made by affidavit of the person serving a subpoena entered on a true copy of the subpoena.

(f) A party or the individual to whom the subpoena is directed may file with the Judge a motion to quash the subpoena within ten (10) days after service of the subpoena, or on or before the time specified in the subpoena for compliance if it is less than ten (10) days after service.

(g) Upon failure of any person to comply with a subpoena issued by the Judge, the Attorney General, in the name of the Judge, but on relation of the party, shall institute proceedings in the appropriate district court for the enforcement of the subpoena, unless the enforcement of the subpoena would be inconsistent with law. Neither the Attorney General nor the Judge shall be deemed thereby to have assumed responsibility for prosecution of the same before the court.

### § 76.24 Protective order.

(a) A party or a prospective witness or deponent may seek to limit the availability or disclosure of evidence by filing a motion for a protective order with respect to discovery sought by an opposing party or with respect to the hearing.

(b) In issuing a protective order, the Judge may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, or to protect privileged information including one or more of the following orders:

- (1) That the discovery not be had;
- (2) That the discovery may be had only on specified terms and conditions,

including a designation of the time or place;

(3) That the discovery may be had only through a method of discovery other than that requested;

(4) That certain matters not be the subject of inquiry, or that the scope of discovery be limited to certain matters;

(5) That discovery be conducted with no one present except persons designated by the Judge;

(6) That the contents of discovery or evidence be sealed;

(7) That a sealed deposition be opened only by order of the Judge;

(8) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the Judge.

### § 76.25 Fees.

Unless otherwise ordered by the Judge, the party requesting a subpoena shall pay the cost of the fees and mileage of any witness subpoenaed. Such costs shall be in the amounts that would be payable to a witness in a proceeding in United States district court. A check for witness fees and mileage shall accompany the subpoena when served, except that when a subpoena is issued on behalf of the complainant, a check for witness fees and mileage need not accompany the subpoena.

### § 76.26 Sanctions.

(a) As necessary to meet the ends of justice, the Judge may impose sanctions upon any party or a party's counsel, including, but not limited to sanctions based upon the following reasons:

(1) Failure to comply with an order, rule, or procedure governing the proceeding;

(2) Failure to prosecute an action; or

(3) Engaging in other misconduct that interferes with the speedy, orderly, or fair conduct of the proceeding.

(b) Any such sanction, including but not limited to those listed in paragraphs (c), (d), and (e) of this section, shall reasonably relate to the severity and nature of the failure or misconduct.

(c) When a party fails to comply with an order, including an order for taking